

AMENDED IN SENATE SEPTEMBER 4, 2009

AMENDED IN ASSEMBLY MAY 12, 2009

CALIFORNIA LEGISLATURE—2009—10 REGULAR SESSION

ASSEMBLY BILL

No. 1215

Introduced by Assembly Member De La Torre

February 27, 2009

~~An act to amend Sections 87482 and 87882 of the Education Code, relating to community colleges. An act to add Sections 19852.2 and 19852.3 to the Government Code, relating to public employment.~~

LEGISLATIVE COUNSEL'S DIGEST

AB 1215, as amended, De La Torre. ~~Community colleges: temporary and part-time faculty. Public employment: furloughs.~~

Existing law authorizes the Governor to require that the 40-hour workweek be worked in 4 days in any state agency or part thereof when the Governor determines that the best interests of the state would be served thereby. Existing law vests the Department of Personnel Administration with the duties and responsibilities exercised by the State Personnel Board with respect to the administration of salaries, hours, and other personnel-related matters.

This bill would exempt employees in positions funded at least 95% by sources other than the General Fund from furloughs implemented by any state agencies, boards, and commissions. The bill would also prohibit a state agency, board, or commission from directly or indirectly implementing or assisting in implementing a furlough of those employees. The bill would define "employee" for the purpose of those provisions and would also specify that nothing in those provisions shall be construed as legal authorization for the imposition of furloughs on

employees through Executive order. The bill would also make related findings and declarations.

~~(1) Existing law establishes the California Community Colleges, under the administration of the Board of Governors of the California Community Colleges, as one of the segments of public postsecondary education in this state. Existing law establishes community college districts, administered by a governing board, throughout the state, and authorizes these districts to provide instruction to students at the community college campuses maintained by the districts.~~

~~Existing law requires that a person employed to teach adult or community college classes for not more than 67% of the hours per week of a full-time employee having comparable duties, excluding substitute service, be classified as a temporary employee.~~

~~Existing law authorizes the governing board of a district to employ a person serving as full-time faculty or part-time faculty but prohibits employment of a person as a temporary faculty member by any one district for more than 2 semesters or 3 quarters, except that a person serving as full-time or part-time clinical nursing faculty teaching 60% or more of the hours per week considered a full-time assignment for regular employees may be employed as a temporary faculty member for up to 4 semesters or 6 quarters within any period of 3 consecutive years between July 1, 2007, and June 30, 2014.~~

~~This bill would instead allow nursing faculty that teach up to 67% of the hours per week considered a full-time assignment for regular employees having comparable duties, excluding substitute service, to be employed by any one school district in the amounts described above.~~

~~(2) Existing law, the Community College Part-Time Faculty Office Hours Program, authorizes the governing board of a community college district to establish a program to provide part-time faculty office hours. For purposes of the program, existing law defines “part-time faculty” as any person who is employed to teach for not more than 60% of the hours per week considered a full-time assignment for regular employees having comparable duties.~~

~~This bill would change the definition of “part-time faculty” by increasing the percentage of the hours per week to 67.~~

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~ yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 *SECTION 1. Section 19852.2 is added to the Government Code,*
2 *to read:*

3 *19852.2. The Legislature finds and declares all of the*
4 *following:*

5 *(a) Executive Orders S-16-08 and S-13-09 imposed three unpaid*
6 *furlough days on state employees. These furloughs, instituted*
7 *outside the collective bargaining process, constitute an annual*
8 *pay cut of 14 percent. The imposition of involuntary furlough time*
9 *on state employees has resulted in tremendous hardship to*
10 *employees and their families.*

11 *(b) Although the Executive orders declare an emergency*
12 *pursuant to Section 3516.5 based upon the General Fund deficit,*
13 *the furloughs apply to virtually all state employees, without regard*
14 *to whether they are paid through the General Fund or whether*
15 *the furlough results in any state savings.*

16 *(c) Several dozen state agencies are user-funded or federally*
17 *funded. Furloughing the employees of these agencies creates no*
18 *General Fund savings and simply makes these agencies less*
19 *efficient.*

20 *(d) Not only do delays harm California's most vulnerable*
21 *residents but they also deprive the state of various sources of*
22 *federal funding, at a time when we must maximize all revenue*
23 *sources to improve our economy. A report by the Social Security*
24 *Administration's inspector general concluded that just two furlough*
25 *days would decrease California's capacity to process disability*
26 *claims by 10 percent, delaying 2,375 disability cases per month.*
27 *Currently the Department of Social Services, which administers*
28 *the program, is losing ten million dollars (\$10,000,000) per month*
29 *in federal funds.*

30 *(e) With the unemployment rate at a record high, furloughing*
31 *workers at the Employment Development Department and the*
32 *California Unemployment Insurance Appeals Board will only make*
33 *it harder for the unemployed to access benefits. It is estimated that*
34 *the wait time for an appeal to be heard will increase from seven*
35 *weeks to three months. These departments are federally funded so*
36 *the hardship inflicted will not result in any state savings.*

37 *(f) In addition to departments whose employees are not paid*
38 *from the General Fund, the furloughs extend even to those*

1 departments that generate new revenue. The Franchise Tax Board
2 says the state will lose five hundred million dollars (\$500,000,000)
3 over the next three years because collections and audits will decline
4 due to employee furloughs. The Franchise Tax Board has already
5 seen a three hundred seventy-two million dollar (\$372,000,000)
6 reduction in income tax revenue for the fiscal year that ended June
7 30. These furloughs are actually exacerbating the General Fund
8 deficit they were intended to help reduce.

9 (g) California's budget deficit is a product of the national and
10 global economic downturn. Solutions to the budget crisis should
11 focus on improving the economy, rather than cutting the pay of
12 and decreasing consumer spending by California workers. The
13 Sacramento region is already losing five hundred million dollars
14 (\$500,000,000) to six hundred million dollars (\$600,000,000) a
15 month in worker wages, forcing many local businesses to lay off
16 workers or close their doors.

17 SEC. 2. Section 19852.3 is added to the Government Code, to
18 read:

19 19852.3. (a) Employees in positions funded at least 95 percent
20 by sources other than the General Fund shall be exempt from
21 furloughs implemented by any state agencies, boards, and
22 commissions.

23 (b) A state agency, board, or commission shall not directly or
24 indirectly implement or assist in implementing a furlough of an
25 employee when the position is funded at least 95 percent from
26 sources other than the General Fund.

27 (c) Nothing in this section shall be construed as legal
28 authorization for the imposition of furloughs on employees through
29 Executive order.

30 (d) For the purposes of this section, "employee" means a civil
31 service employee of the State of California. The "State of
32 California" as used in this section includes such state agencies,
33 boards, and commissions as may be designated by law that employ
34 civil service employees.

35 SECTION 1. ~~Section 87482 of the Education Code is amended~~
36 ~~to read:~~

37 ~~87482. (a) (1) Notwithstanding Section 87480, the governing~~
38 ~~board of a community college district may employ any qualified~~
39 ~~individual as a temporary faculty member for a complete school~~
40 ~~year, but not less than a complete semester or quarter during a~~

1 school year. The employment of those persons shall be based upon
2 the need for additional faculty during a particular semester or
3 quarter because of the higher enrollment of students during that
4 semester or quarter as compared to the other semester or quarter
5 in the academic year, or because a faculty member has been granted
6 leave for a semester, quarter, or year, or is experiencing long-term
7 illness, and shall be limited, in number of persons so employed,
8 to that need, as determined by the governing board.

9 (2) Employment of a person under this subdivision may be
10 pursuant to contract fixing a salary for the entire semester or
11 quarter.

12 (b) A person, other than a person serving as clinical nursing
13 faculty and exempted from this subdivision pursuant to paragraph
14 (1) of subdivision (c), shall not be employed by any one district
15 under this section for more than two semesters or three quarters
16 within any period of three consecutive years.

17 (c) (1) Notwithstanding subdivision (b), a person serving as
18 full-time clinical nursing faculty or as part-time clinical nursing
19 faculty teaching the hours per week described in Section 87482.5
20 may be employed by any one district under this section for up to
21 four semesters or six quarters within any period of three
22 consecutive academic years between July 1, 2007, and June 30,
23 2014, inclusive.

24 (2) A district that employs faculty pursuant to this subdivision
25 shall provide data to the chancellor's office as to the number of
26 faculty members hired under this subdivision, and what the ratio
27 of full-time to part-time faculty was for each of the three academic
28 years prior to the hiring of faculty under this subdivision and for
29 each academic year for which faculty is hired under this
30 subdivision. This data shall be submitted, in writing, to the
31 chancellor's office on or before June 30, 2012.

32 (3) The chancellor shall report, in writing, to the Legislature
33 and the Governor on or before September 30, 2012, in accordance
34 with data received pursuant to paragraph (2), the number of districts
35 that hired faculty under this subdivision, the number of faculty
36 members hired under this subdivision, and what the ratio of
37 full-time to part-time faculty was for these districts in each of the
38 three academic years prior to the operation of this subdivision and
39 for each academic year for which faculty is hired under this
40 subdivision.

1 ~~(4) A district may not employ a person pursuant to this~~
2 ~~subdivision if the hiring of that person results in an increase in the~~
3 ~~ratio of part-time to full-time nursing faculty in that district.~~

4 ~~SEC. 2. Section 87882 of the Education Code is amended to~~
5 ~~read:~~

6 ~~87882. For purposes of this article, “part-time faculty” means~~
7 ~~any person who is employed to teach for not more than the hours~~
8 ~~per week described in Section 87482.5.~~